

# **EXHIBIT 4**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

COPY

\* \* \* \* \*

THE ESTATE OF YARON UNGAR,  
et al

VS.

THE PALESTINIAN AUTHORITY,  
et al

\* \* \* \* \*

CIVIL ACTION  
00-105L

JUNE 15, 2010

PROVIDENCE, RI

HEARD BEFORE THE HONORABLE RONALD R. LAGUEUX  
SENIOR DISTRICT JUDGE  
(DEFENDANTS' OBJECTION TO MAGISTRATE JUDGE'S MEMO AND  
ORDER)

**APPEARANCES:**

FOR THE PLAINTIFFS:

DAVID J. STRACHMAN, ESQ.  
McIntyre, Tate & Lynch LLP  
321 South Main Street  
Providence, RI 02903

FOR THE DEFENDANTS:

RICHARD A. HIBEY, ESQ.  
Miller & Chevalier  
655 Fifteenth Street, N.W.  
Suite 900  
Washington, D.C. 20005

DEMING SHERMAN, ESQ.  
Edwards Angell Palmer &  
Dodge LLP  
2800 Financial Plaza  
Providence, RI 02903

Court Reporter:

Anne M. Clayton, RPR  
One Exchange Terrace  
Providence, RI 02903

Proceeding reported and produced by computer-aided  
stenography

1 issue if you're going to use this 9-28-3. We have  
2 never been given the opportunity to explain why we do  
3 not have the ability to pay this and to explain, also,  
4 how the sequestration of over a hundred million dollars  
5 impacts the ability of the Palestinian Government to  
6 attend to the needs of its people. So, yes, it is very  
7 much so a concern for the Court.

8 THE COURT: I agree that you've raised  
9 substantial questions about the applicability of 9-28-3  
10 in these proceedings.

11 MR. HIBEY: Thank you, your Honor.

12 THE COURT: The magistrate judge entitled this  
13 "Memorandum and Order," so he thought he was issuing a  
14 binding order. I disagree. I have held several times  
15 that the magistrate judge in these circumstances can  
16 only issue a Report and Recommendation.

17 I sent this case to him. I didn't tell him  
18 under what provisions of the Magistrate Judges Act I  
19 was sending him this case because I always let the  
20 magistrate judge make that initial determination of  
21 whether it should be a Report and Recommendation or an  
22 order and then I deal with it later, whether it's  
23 based on an appeal or an objection to the Report and  
24 Recommendation.

25 I'm satisfied that I will treat this as a Report

1 and Recommendation, because the magistrate judge does  
2 not have power to issue a payment decree, which is what  
3 he did here in this case.

4 So my review of his Report and Recommendation is  
5 de novo. It's as if I'm hearing it for the first time  
6 myself, and I can issue my own order in these cases.

7 I'm satisfied that the Defendants have raised  
8 some substantial questions about the applicability of  
9 9-28-3 to these types of proceedings or this case in  
10 particular, and I'm not prepared to decide that now  
11 because that may become moot later on.

12 What I'm going to do is defer deciding these  
13 issues until after I have decided the Defendants'  
14 motion to vacate the judgment under 60(b)(6). And  
15 actually, I'm under a mandate from the Court of Appeals  
16 to do that. They've sent it back to me for  
17 reconsideration so I should not issue any kind of  
18 payment order until I've made a determination that that  
19 motion will be granted or denied. And so I am  
20 deferring my decision on the applicability of 9-28-3.

21 We are on our way to getting that motion to  
22 vacate decided after an evidentiary hearing. I've set  
23 a schedule on it. The thing that troubled me for a  
24 moment was, I think, the Plaintiffs deserve some  
25 security, and it seems to me they have it by the

1 actions of the Israeli courts in granting a writ of  
2 attachment, and there is now in the registry of the  
3 country of Israel over one hundred million dollars  
4 that's been withheld from payment to the Palestinian  
5 Authority. So that's sufficient security.

6 If it turns out that the Israeli courts vacate  
7 that attachment, then the Plaintiffs can come before me  
8 and request that a bond be filed to protect the  
9 Plaintiffs because they have for a long enough time  
10 been stonewalled by these Defendants in attempting to  
11 collect on this judgment. And this judgment was  
12 affirmed by the Court of Appeals initially after I  
13 entered it. Now we're dealing with a motion to vacate.  
14 The Court of Appeals sent it back to me, and I will  
15 deal with it after an evidentiary hearing.

16 So that's my ruling today. I am deferring  
17 deciding the applicability of 9-28-3. I have a lot of  
18 personal experience with that statute, and there are  
19 other statutes which apply to non-individuals which may  
20 shed some light on what 9-28-3 means when the words  
21 "his" or "her" are used. In every case I ever heard,  
22 and it's probably close to a hundred under that  
23 statute, every one of the cases involved an individual.  
24 I will tell you that. But that's just what has been  
25 happening. That doesn't mean that the Legislature

C E R T I F I C A T I O N

I, Anne M. Clayton, RPR, do hereby certify  
that the foregoing pages are a true and accurate  
transcription of my stenographic notes in the  
above-entitled case.

  
s/ Anne M. Clayton

---

Anne M. Clayton, RPR

June 17, 2010

---

Date